



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO.1020 OF 2024**

Sharad S/o Udaram Daterao,  
Aged about 78 years, Occ: Business,  
Address: Vijay Cycle Stores, Near  
Saroj Chowk, Amravati, Tq. & Dist.  
Amravati.

**....PETITIONER**

**...V E R S U S...**

Prakash s/o Tekchand Pinjani,  
Aged about 58 years, Occ: Business,  
R/o Sindhu Nagar, Amravati, Tq. &  
Dist. Amravati.

**...RESPONDENT**

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Shri J.J. Chandurkar, Advocate for petitioner.  
Ms Ayushi Dangre, Advocate for respondent.  
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**CORAM:- M.W. CHANDWANI, J.**  
**RESERVED ON : 10.03.2026**  
**PRONOUNCED ON: 23.03.2026**

**JUDGMENT:**

.           **Rule.** Rule made returnable forthwith. Heard finally  
with the consent of the learned counsels appearing for the parties.

2.           The petition challenges the concurrent findings of the  
Trial Court as well as the Appellate Court whereby, the petitioner  
was asked to hand over vacant possession of the suit shop, since  
the respondent requires the premises for *bonafide* purpose.

3. The respondent is the landlord of the premises i.e. the suit shop, whereas, the petitioner is his tenant. The respondent had filed a suit against the petitioner under Section 16 (1)(g) of the Maharashtra Rent Control Act, 1999 (for short, “the Act of 1999”) for eviction and possession on the premise that the suit shop is required by the respondent for the bonafide purpose of starting a business for his younger son, who has recently cleared the examination of Chartered Accountancy. The Trial Court, after framing necessary issues, opined that the suit shop is ideal for the office of a Chartered Accountant i.e. the son of the respondent, namely Vishwas. The shop is situated on the ground floor in a commercial area and it is an ideal location for Vishwas to open his office. Thus, the Trial Court held that the respondent has proved his bonafide need for acquiring the suit shop. The Trial Court has also discussed the issue of comparative hardship and has observed that there are other premises in the market place such as Balaji Market, Corporation Market, Jawahar road, Takhatmal Estate, Juzar Mega Mart, J&D Mall, Khatri Market, Datta Palace Gandhi Chowk, Gulshan Tower, Ghorī Market, Tirpuati Towers where some of the vacant shops are available on rent. It has also been observed that there is no evidence on the part of petitioner that any attempt has been made by him to get another shop on rent.

Comparing the need of the shop for the respondent's son Vishwas with that of the petitioner's cycle shop, the Trial Court opined that no comparative hardship will be caused to the petitioner as compared to the respondent and accordingly, decreed the suit. An unsuccessful attempt was made by the petitioner before the learned District Judge, Amravati. Feeling aggrieved with the dismissal of the appeal, the present petition came to be filed.

4. Having heard the learned counsel for the petitioner and learned counsel for the respondent and having gone through the impugned order as well as the record and proceedings of the learned Trial Court, it is revealed that the respondent has examined himself and his son to prove the bonafide need of the suit shop, whereas the petitioner has examined himself.

5. The main contention of the learned counsel for the petitioner is that the respondent has suppressed the fact that he owns other premises and therefore, he is not entitled to the relief. According to him, these aspects have not been considered by any of the courts. To buttress his submission, he seeks to rely on the decision of *Tarachand Hassaram Shamdasani Vs. Durgashankar G. Sharoff and others* <sup>1</sup> wherein, it has been observed that it is

<sup>1</sup> 2004 (Supp.) Bom. C.R. 333

obligatory on the part of the landlord to disclose in the pleadings and in his evidence, the fact that he owns other premises which were capable of being utilized for the requirement pressed into service in the suit filed against the tenant and to further disclose and explain that inspite of those acquisitions and ownership of other premises, the requirement which is pressed into service against the tenant would still survive. Only then he would be entitled to invoke this ground and would succeed in establishing his need to be bonafide and reasonable.

6. In the case of *Narendra Gulabrao Zade Vs. Shiocharan Ghashiram Gupta since deceased through LRs Smt. Radhabai Shivcharan Gupta and another*<sup>1</sup>, this Court has observed that the landlord can claim to be the best judge of his need, after he fairly discloses all options available to him and shows some reason for choosing that particular option i.e. the premises in question. According to the learned counsel, there is suppression of material facts and therefore, the suit ought to have been dismissed by the Trial Court.

7. *Per contra*, learned counsel for the respondent submitted that there is no suppression of material facts. According to him, the Trial Court as well as the First Appellate Court have

<sup>1</sup> 2011 (1) Mh.L.J. 839

dealt with the issue very well and therefore, no interference is required in the concurrent findings of the Courts below.

8. It appears that in the said building at the upper ground floor, there is a living room at the back side of the said floor. Thus, the said room has a living room and kitchen and is being occasionally used by the respondent for residential purposes. The First Appellate Court has rightly dealt with this aspect in para 18 of its decision stating that it is not expected from the respondent to use those residential premises to run the office of a Chartered Accountant. Therefore, the case is not of suppressing any material fact. Had there been any vacant commercial premises owned by the respondent and had he not disclosed that property, the argument of the petitioner would have some force. But since the said room is a residential premises therefore, no substance is found in the argument of the learned counsel for the petitioner. Therefore the citation relied upon by the learned counsel for the petitioner does not support his case.

9. A lot hue and cry has been raised by the petitioner by stating that the First Appellate Court did not allow the petitioner to argue the matter orally and he was directed to place the written notes of argument on record. It is a matter of record though,

initially the First Appellate Court asked the parties to file written notes of argument to save judicial time, but the said decision was challenged by the petitioner filing Writ Petition No.5472/2023 whereby, it was held that the order dated 10.07.2023 passed by the First Appellate Court directing the parties to file written notes of arguments is misconceived and it does not mean that the First Appellate Court is not ready to hear the petitioner on merits. It is also reflected from the order-sheet that the matter has been listed for arguments on multiple occasions. It appears from the decision of First Appellate Court as well as the Trial Court that they have extensively discussed the bonafide need of the respondent as well as the aspect of comparative hardship. Both the judgments of the courts below extensively discuss the contentions of both the parties which is a testament to the fact that both parties were heard on merits before passing a reasoned judgment. Rather, both the Courts below were burdened with various citations which have been dealt with by them and after reading those judgments, the Trial Court as well as the First Appellate Court opined that the respondent has proved his bonafide need and the suit shop is required by the respondent to setup a business for his younger son Vishwas to open his Chartered Accountancy office. It is also concurrently held by both the Courts below that the petitioner can

run Vijay Cycle Stores store from any other premises.

10. So far as the submission of the learned counsel for the petitioner that in the map which has been prepared by the respondent to renovate some of the rooms of the building, he has failed to show the suit room is concerned, since the respondent is intending to renovate some of the rooms of the building which are in possession of the other son of the respondent namely Mohit, wherein “Gajanan Collection” is being run by him, that does not necessarily mean that the respondent was also intending to renovate the suit shop.

11. Be that as it may, even otherwise this will not be helpful to the petitioner in any case in view of the fact that both the Courts below have already considered the aspect of comparative hardship as well as bonafide requirement in detail.

12. The decision of this Court in the case of ***Madan Dayaram Rakesh Vs. Yogendra Baijnath Gupta*** (Writ Petition No.1894/2022 (Nagpur Bench) decided on 17.08.2022) regarding mandatory consideration of comparative hardship by the Court will not be helpful to the petitioner, since this issue has been dealt with by both the Courts below.

13. Regarding the appointment of a Court Commissioner, this Court in a separate Writ Petition bearing no.1032/2019 filed by the petitioner decided on 04.05.2019, has already opined that there would be no question of appointment of a court commissioner to carry out the measurement of the entire building of the landlord as that would not serve any purpose, since pleading are very clear. Therefore, this issue cannot be agitated by the petitioner for the second time again in this writ petition.

14. Needless to mention that, interference of this Court in writ jurisdiction is only warranted when there is any perversity in the findings of the Courts below.

15. No perversity could be pointed out by the learned counsel for the petitioner either in the decision of the Trial Court or the First Appellate Court. Both the Courts, after a full fledged trial, have given their findings on the aspect of bonafide need and comparative hardship. Therefore, no interference is required at the hands of this Court. Therefore, the petition being devoid of merits and stands dismissed.

Rule discharged.

(M.W. CHANDWANI, J.)

*Wagh*